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VIA E-MAIL

FinCen
PO Box 39
Vienna
VA 22183-0039

ATTN: Section 352 – Jewelry Dealer Regulations

April 21, 2003

Dear Sir

The World Gold Council (WGC, a not for profit association of gold mining companies from around the world) welcomes the opportunity to submit comments on the proposed rule to implement Section 352 of the USA PATRIOT Act as it applies to dealers in precious metals, stones and jewels. The WGC appreciates the US government's concerns over money laundering and terrorist financing, and commends the efforts of the Treasury to create a risk-based approach to the detection and prevention of such activity. These comments seek further refinement of the proposed rule to reflect the limited risks of money laundering or terrorist financing arising from the activities of gold mining companies, whether they are members of the WGC or not.

Specifically, the WGC requests clarification that gold mining companies (those companies that are listed on major stock exchanges and are clearly distinguishable from small operators, artisanal and recreational miners) are excluded from the proposed definition of "dealers" because they are not "engaged in the business of purchasing and selling ... precious metals". Gold mining companies sell their production to bullion dealers, bullion banks or refineries, but do not purchase precious metals, except in limited instances in order to unwind hedging contracts. Such purchases involve no physical metal, and are confined to the buying back of "paper" transactions. This exclusion would be in line with the definition of "dealers" in the "Notice of Proposed Rulemaking" ("the Notice"). It would also comply with the language in the Notice that covers the first exception to the definition of "dealers": "The rationale for this limited exception is that, in order to abuse this industry, a money launderer must be able to sell as well as purchase the goods."

Should the Treasury determine that gold mining companies are not excluded from the definition of "dealers" on the above grounds, the WGC requests that the Final Rule implementing Section 352 exempt gold mining companies from the definition of dealers because they do not sell or purchase precious metals to or from the general public, but deal only with other industry professionals in a closed system. As an alternative, the WGC seeks an exemption for gold mining companies because they sell precious metals solely to entities that themselves maintain an anti-money laundering compliance program in accordance with US standards.

Either of these exemptions would bring the Proposed Rule into line with the risk-based approach the Treasury has adopted in implementing the USA PATRIOT Act. Both exemptions would be

consistent with other exemptions detailed in the Proposed Rule for certain classes of retailers, which explicitly recognize a limited risk of abuse in cases where an entity engages in no direct sales or purchases to or from the general public.

Gold mining companies transact their business with a well-established network of bullion banks, bullion dealers and refiners. All their dealings take place within a closed circle of market professionals, most of whom are themselves subject to the provisions of the Bank Secrecy Act and to this rule of the USA PATRIOT Act.

Given the existing protections in place, requiring gold mining companies to establish and maintain a compliance program as outlined in the Proposed Rule would create an unnecessary burden and would not be supportive of the public policy goal of detecting and preventing money laundering and terrorist financing.

The WGC appreciates the opportunity to share our comments on the proposed rule. If you require additional information from us, please contact George Milling-Stanley on 212 317 3848 or by e-mail (george.milling-stanley@gold.org).

Sincerely,

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